S.B. CIVIL WRIT PETITION NO.7395/2007

Date of order : 25.9.2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri A.S. Shekhawat for the petitioners.

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Heard learned counsel for the petitioners.

The petitioners have challenged the order dated 31.8.2007 passed by the learned Civil Judge (SD), Fatehpur Shekhawati whereby the application of the plaintiff-respondent filed under Section 151 of the Code of Civil Procedure has been accepted and the SHO, Sadar Fatehpur has been directed to provide police assistance for enforcing the injunction order passed by the court on 1.6.2007. While allowing the application of temporary injunction filed by the plaintiff-respondent under Order 39 Rule 2 read with Section 151, CPC, the court had restrained the petitioner that they should not cause any hindrance in the rights of the plaintiff-respondents to

use the way through Khasra no.106/1. The trial court has now by the impugned order has merely directed to provide police assistance/aid to ensure implementation of the said order so that the petitioner does not create any hindrance in the use of that way by them or their cattles to go to their agricultural field.

Learned counsel for the petitioner has aruged that in para 6 of the application filed under Section 151 CPC, the plaintiff respondent had reserved the liberty to proceed against the defendant petitioner in contempt proceedings and therefore, at the same time, he could not ask for police assistance. It was aruged that when specific provision under Order 39 Rule 2A is available for that purpose, residuary provisions contained in Section 151 CPC cannot be invoked.

In the facts of the case, I find that the trial court by the impugned order has merely reiterated the earlier

order of injunction which has now become final and has directed for providing police assistance to the plaintiff for full and effective implementation of that order. Thus I do not find any illegality in the impugned order so as to warrant interference by this Court.

The writ petition being devoid of merits is dismissed summarily.

(MOHAMMAD RAFIQ), J.

Skant/-